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5 IN THE UNITED STATES DISTRICT COURT

6 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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8 KIARA ROBLES,

9 Plaintiff,

10 v.

11 IN THE NAME OF HUMANITY, WE  
12 REFUSE TO ACCEPT A FASCIST  
13 AMERICA, et al.,

14 Defendants.

Case No. 17-cv-04864 CW

ORDER DISMISSING WITHOUT  
PREJUDICE BATTERY CLAIM  
AGAINST DEFENDANT RAHA  
MIRABDAL

(Re: Dkt. Nos. 108, 109)

15 In separate orders, the Court (1) dismissed Plaintiff Kiara  
16 Robles' claims against Defendants the City of Berkeley (the  
17 City), University of California (UC) President Janet Napolitano  
18 and UC Berkeley Chancellor Nicholas Dirks (the UC officials),  
19 Raha Mirabdal, and Ian Dabney Miller, see Docket Nos. 51, 88,  
20 101, 104; and (2) revoked the pro hac vice status for Robles'  
21 counsel and denied Robles' motion for disqualification of the  
22 undersigned, Docket No. 86. Robles appealed each of these  
23 orders. Docket No. 105.

24 On July 10, 2020, the Ninth Circuit issued a memorandum in  
25 which it affirmed in part and reversed in part the Court's  
26 orders. Ninth Circuit Mem., Docket No. 108. The court of  
27 appeals reversed the dismissal of Robles' battery claim against  
28 Mirabdal based on an aiding-and-abetting theory of liability.

1       *Id.* at 5-6. The Ninth Circuit affirmed the dismissal of all  
2 other claims, as well as the revocation of the pro hac vice  
3 status for Robles' counsel and the denial of Robles' motion for  
4 disqualification. *Id.* at 1-2, 5-8. The Ninth Circuit issued its  
5 mandate with respect to these rulings on August 5, 2020.  
6 Mandate, Docket No. 109.

7       On remand, the only claim that remains at issue in this  
8 action is Robles' battery claim against Mirabdal based on an  
9 aiding-and-abetting theory of liability, which arises out of  
10 state law. The Court declines to exercise supplemental  
11 jurisdiction over that claim. See 28 U.S.C. § 1337(c)(3); Ninth  
12 Circuit Mem. at 7-8 (noting that the Court may "choose on remand  
13 to decline supplemental jurisdiction over the surviving state law  
14 claim against Mirabdal"). The Court finds that the balance of  
15 the factors of judicial economy, convenience, fairness, and  
16 comity do not weigh in favor of retaining that claim in federal  
17 court, as the claim has never progressed beyond the pleading  
18 stage and comity would be promoted by allowing the state court to  
19 interpret state law in the first instance. See Oliver v. Ralphs  
20 Grocery Co., 654 F.3d 903, 911 (9th Cir. 2011) (affirming  
21 dismissal of state-law claims based on findings that "the balance  
22 of the factors of judicial economy, convenience, fairness, and  
23 comity did not tip in favor of retaining the state-law claims  
24 after the dismissal of the [federal] claim") (citation and  
25 internal quotation marks omitted); Wren v. Sletten Const. Co.,  
26 654 F.2d 529, 536 (9th Cir. 1981) ("When the state issues  
27 apparently predominate and all federal claims are dismissed  
28

1 before trial, the proper exercise of discretion requires  
2 dismissal of the state claim.").

3 Accordingly, Robles' battery claim against Mirabdal based on  
4 an aiding-and-abetting theory of liability is DISMISSED WITHOUT  
5 PREJUDICE to re-filing it in state court. The Clerk shall  
6 terminate this action.

7 IT IS SO ORDERED.

8 Dated: August 20, 2020



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CLAUDIA WILKEN  
United States District Judge